REMARKS

In this response, certain claims have been amended as indicated above, and no claims have been added or canceled. Thus, claims 1-56 remain pending in this application. The Office Action issued by the Examiner has been carefully considered.

Claims 1-51 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,735,630 (Gelvin et al.).

Applicant has filed a Terminal Disclaimer with this response that cites the above patent, and accordingly, Applicant requests withdrawal of this rejection.

Claims 1-3, 5-6, 8, 14-16, 18, 24, 34, 39-41, 43-45, 48, 49 and 52-56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Clare et al. (U.S. Patent No. 6,414,955) (hereinafter Clare) in view of Kail, IV (US Patent No. 6,225,901) (hereinafter Kail).

Applicant has amended independent claim 1 to recite "transferring data from the at least one node of a first type to another of the plurality of network elements local to the at least one node of a first type and processing of the transferred data by the another of the plurality of network elements" (emphasis added). The Examiner states that Clare does not specifically disclose distributing storage and processing of the collected data from the first node type to another element, and newly presents Kail as a secondary reference.

As the Examiner agrees, Kail is directed to transmission of sensing data to a remote monitoring device. In particular, Kail's "Summary of the Invention" immediately leads off by stating that the "present invention provides an apparatus and method for remotely monitoring the status of a living or an inanimate subject." (col. 1: lines 62-64). Further, Kail describes the sending of data collected by one or more sensors to a central monitoring unit (col. 4, lines 19-26). Kail does not anywhere teach or suggest that any data collected from one or more sensors is to be sent other than to the central monitoring unit. Because Kail explicitly teaches that the central monitoring unit is for remote monitoring, Kail is legally insufficient to make a prima

facie case and teaches away from "transferring data . . . local to the at least one node of a first type" as recited in Applicant's claim 1. A person of ordinary skill in the art that consulted Kail would at most be motivated to send sensor data to a remote monitoring unit.

Applicant's independent claims 48 and 49 have each been amended to recite "transferring data from the at least one node of a first type to another of the plurality of network elements <u>local to the at least one node of a first type</u> and processing of the transferred data by the another of the plurality of network elements" (emphasis added). Claims 48 and 49 are believed allowable for similar reasons as discussed above.

Applicant's independent claim 54 has been amended to recite "wherein distributing storage and processing of the collected data comprises transferring data from the at least one node to a second node of the plurality of nodes <u>local to the at least one node</u> and processing of the transferred data by the second node" (emphasis added). Applicant's independent claim 56 has been amended to recite "<u>locally distributing processing</u> of the collected data among the plurality of network elements in response to at least one parameter of a signal received from the at least one environment" (emphasis added). Claims 54 and 56 are also believed allowable for similar reasons as discussed above.

Claims 4, 17-20, 23, 25-32, 46, 47, 50, and 51 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Kail in view of Myer et al. (US Patent No. 6,615,088) (hereinafter Myer).

Applicant's independent claim 46 has been amended to recite "<u>locally distributing processing of the collected data</u> from the at least one node of a first type to two or more nodes of the plurality of network elements" (emphasis added). Myer does not satisfy the insufficiencies of Kail above. Accordingly, claim 46 is also believed allowable for similar reasons as discussed for claim 1 above.

Applicant's independent claim 50 has been amended to recite "distributing processing of the collected data from the at least one node of a first type to one or more other nodes of the plurality of network elements <u>local to the at least one node</u> of a first type" (emphasis added). Claim 50 is believed allowable for similar reasons as discussed above.

Applicant's independent claim 51 recites "collecting data from the at least one environment using at least one node of a first type" and further recites "remotely programming and controlling at least one function of the plurality of node types in response to the collected data and node information" (emphasis added). However, Kail, Clare, and Myer individually or collectively do not teach or suggest the remotely recited activity in response to collected data and node information.

More specifically, it should first be noted that the data is collected using the "at least one node of a first type." In making this rejection of claim 51 for "similar reasons as stated above," the Examiner accordingly is relying on the earlier argument for claim 1 that Clare teaches "remotely controlling" at col. 15, lines 13-16. The Examiner has not presented any argument in support of how such remotely controlling is done in response to any data that is actually described as collected data by Clare. Instead, in this cited section Clare only describes active processes that may be launched when adding a new node to a network. There is no teaching or suggestion here of any use of collected data from an environment as claim 51 recites.

Second, the Examiner also is relying on another earlier argument for claim 1 that Clare (col. 14, lines 12-17) teaches node resource information. Even if for the sake of argument this is accepted as teaching node information, this information is solely related to topology learning and the addition of new nodes to a network. The Examiner has failed to present any argument as to how Clare teaches or suggests "remotely programming" be done in response to such node information, and in particular how Clare shows this for information that is merely related to adding a new node under Clare's topology learning method.

Finally, there is clearly no teaching or suggestion in any reference that "remotely programming and controlling" be in response to "the collected data" and "node information" as recited by Applicant's claim 51. The Examiner has only applied Kail to show remote monitoring of sensor data, and Kail does not satisfy the insufficiencies of Clare and Myer. Therefore, Applicant requests that this rejection of claim 51 be withdrawn.

Claims 7, 9-13, 35, and 36 have been rejected under 35 U.S.C. 103(a) as being **unpatentable over Clare in view of Kail in view of Humpleman et al. (US Patent No. 6,546,419) (hereinafter Humpleman).**

Applicant's claims 7, 9-13, 35, and 36 each depend, directly or indirectly, from independent claim 1, and are believed allowable for the reasons discussed above.

Claim 37 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Kail in view of Davis et al. (US Patent No. 5,742,829) (hereinafter Davis).

Applicant's claim 37 depends directly from independent claim 1, and is believed allowable for the reasons discussed above.

Claim 38 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Kail in view of Makansi et al. (US 2002/0154631) (hereinafter Makansi).

Applicant's claim 38 depends directly from independent claim 1, and is believed allowable for the reasons discussed above.

Any of Applicant's other claims not explicitly discussed above depend, directly or indirectly, from Applicant's independent claims discussed above and are believed allowable for at least similar reasons.
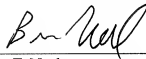
In view of the above, Applicant respectfully requests the reconsideration of this application and the allowance of all pending claims. It is respectfully submitted that the Examiner's rejections have been successfully traversed and that the application is now in order for allowance. Applicant believes that the Examiner's other arguments not discussed above are moot in light of the above arguments, but reserves the later right to address these arguments. Accordingly, reconsideration of the application and allowance thereof is courteously solicited.

Respectfully submitted,

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